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Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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Federal Communications Commission
Washington, D.C.


Re: Ex Parte Meeting
CC Docket Nos. 96-149 /
96-150

Dear Mr. Caton:

Earlier today, representatives of the Telecommunications Industry Association ("TIA") met with Richard Metzger, Melissa Newman, and Sarah Whitesell of the Common Carrier Bureau to discuss issues raised in the initial comments, reply comments, and various ex parte submissions filed in the above-referenced proceeding. Attached is a copy of an outline summarizing TIA's presentation.

Pursuant to Section 1.1206(a) of the Commission's rules, two copies of this notice are attached for each of the above-captioned proceedings.

Sincerely,


John L. McGrew

cc: Richard Metzger
Kathleen Levitz
Melissa Newman
Sarah Whitesell

OUTLINE OF ORAL PRESENTATION
RE/RBOC MANUFACTURING SAFEGUARDS
(CC Dockets 96-149 and 96-150)

I. Overview of Competitive Concerns

- A. Positive Impact of MFJ on Telecom Equipment Manufacturing Industry
- B. Need to Preserve Competitive Marketplace Once RBOC Manufacturing Restriction is Lifted
- C. Specific Competitive Concerns Arising from the BOCs' Dominant Position in Local Exchange Markets
 - 1. Cross-subsidization
 - a. cost misallocations
 - b. improper transfer pricing
 - 2. Discrimination
 - a. network design/standards
 - b. information disclosure
 - c. procurement
- D. Impact of Industry Restructuring

II. Need for Strong Post-Entry Safeguards

- A. 1996 Telecom Act Ties Removal of Manufacturing Restriction to RBOC Compliance With Market Opening Preconditions for In-Region InterLATA Entry Established in Section 271(d)

Satisfying Section 271 preconditions for one BOC will result in removal of manufacturing restriction for all affiliated BOCs.
- B. BOCs will retain dominant position in local services even in those areas where preconditions have been met. Accordingly, significant risks to competition in manufacturing will remain for some time after an RBOC is allowed to enter the market.
- C. FCC should ensure that Section 271 preconditions are fully met and that FCC rules implementing Section 272 and 273 safeguards are in place and are adequate to constrain residual risks to competition.

III. Post-Entry Manufacturing Safeguards

- A. In order to minimize risk to competition in manufacturing during transition to competition in local services, FCC should adopt strong rules implementing "generic" Section 272 and manufacturing-specific Section 273 safeguards.
- B. Section 272 Safeguards
 - 1. Non-Accounting Safeguards (CC Docket 96-149)
 - a. Need for "maximum separation" approach re/Section 272(b), to reduce risk of cost misallocation, cross-subsidization
 - b. In addition, strong comprehensive rules implementing Section 272(c)(1) and other, manufacturing-specific provisions are essential to minimize potential for BOC discrimination in procurement, network design, standards, information disclosure.
 - 2. Accounting Safeguards (CC Docket 96-150)
 - a. Accounting practices of BOCs and their affiliates should be fully auditable and comply with GAAP
 - b. TIA generally supports adoption of FCC's proposals to strengthen existing affiliate transaction; rules, e.g., by adopting uniform valuation methods for goods and services, eliminating prevailing company pricing and requiring good faith determinations of fair market value.
 - 3. Enforcement Mechanisms -- FCC also should support adoption of rules establishing strong enforcement mechanisms, including procurement compliance plans, audit, reporting, record retention requirements. (See TIA Comments, CC Dockets 96-149, 96-150)
- C. Section 272 and 273 non-discrimination requirements should be viewed as independent, complementary.
- D. FCC should utilize supplemental authority under Section 273(g) where necessary to ensure that its rules adequately address all potential forms of cross-subsidy and discrimination.